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August 14, 2023

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By Electronic Case Filing

The Honorable Gregory H. Woods  
United States District Court  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St., Courtroom 12C  
New York, NY 10007

Re: Sullivan v. Gelb, et al., Case No. 1:23-cv-05194-GHW

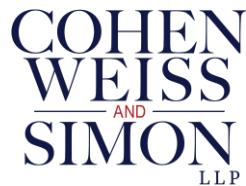
Dear Judge Woods:

This firm represents Defendant Samuel Wheeler (“Wheeler”) in this action. We write with the consent of Defendants Peter Gelb, Marcia Sells, and Stephanie Basta (collectively, with Wheeler, “Defendants”) and of Plaintiff Mark Sullivan (“Plaintiff”) to respectfully and jointly request that the Court enter a stay of discovery pending resolution of Defendants’ motion to dismiss and Plaintiff’s motion to remand. *See* Docket Nos. 37, 40, 43.

This action arises out of the termination of the Plaintiff’s employment with the Metropolitan Opera on August 1, 2022. Compl. ¶¶ 28-29. Plaintiff filed the Complaint in state court on May 17, 2023. Defendants removed this action to federal court on June 20, 2023. *See* Docket No. 1. Plaintiff filed a motion to remand on August 11, 2023. Docket No. 37. That same day, Defendants filed motions to dismiss the Complaint in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(6). Docket Nos. 40, 43.

Courts may stay discovery upon a showing of good cause. *Integrated Sys. & Power, Inc. v. Honeywell Int’l, Inc.*, No. 09-CV-5874 (RPP), 2009 WL 2777076, at \*1 (S.D.N.Y. Sept. 1, 2009); *see also* Order, *Kelley v. Morning Bee, Inc., et al.*, No. 1:21-cv-08420 (GHW) (S.D.N.Y. Jan. 14, 2022), ECF No. 25. In determining whether a stay is appropriate, courts consider: (1) whether the defendant has made “substantial arguments” in favor of dismissal; (2) the breadth of discovery sought; and (3) any prejudice that would result. *Ema Fin., LLC v. Vystar Corp.*, 336 F.R.D. 75, 79 (S.D.N.Y. 2020).

The facts here weigh in favor of a stay. Defendants’ arguments for dismissal rely on the well-established federal labor law of preemption and are, therefore, “potentially dispositive” and “not unfounded in the law.” *Gandler v. Nazarov*, No. 94 Civ. 2272, 1994 WL 702004, at \*4 (S.D.N.Y. Dec. 14, 1994); *see* Docket Nos. 42, 44 (memoranda of law in support of motions to



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dismiss). If successful, Defendants' motions could result in dismissal of the Complaint in its entirety. On the other hand, if Plaintiff prevails on his motion to remand, the case will return to state court where different procedural rules govern the scope and breadth of discovery, requiring the parties to reinitiate any already proffered discovery requests. The parties seek this stay to conserve resources and avoid the possibility of duplicative discovery. Since all parties join in and consent to this request, there is no prejudice.

We respectfully request that the Court grant this request, and we thank the Court for its consideration.

Respectfully submitted,

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CC: Mark Sullivan, Plaintiff  
Howard Robbins, Counsel to Peter Gelb, Marcia Sells, and Stephanie Basta

Application granted. The Court finds good cause, pursuant to Federal Rule of Civil Procedure 26(c), to stay discovery pending resolution of Defendants' motion to dismiss and Plaintiff's motion to remand.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 47.

SO ORDERED.

Dated: August 14, 2023  
New York, New York

  
GREGORY H. WOODS  
United States District Judge